

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2050 of 1986

Date of decision: 27-12-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AMBICA METAL INDUSTRIES

Versus

GUJARAT INDUSTRIAL DEVELOPMENT CORPN

Appearance:

MR RF PATEL for Petitioner

M/S TRIVEDI & GUPTA for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/12/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner has challenged the judgment and

order dated 19th December, 1985 made by the Assistant Judge, Ahmedabad (Rural) in Regular Civil Appeal No.16 of 1984 confirming the order dated 12th January, 1984 passed by the Competent Officer and Regional Manager, Gujarat Industrial Development Corporation.

2. There is no dispute that respondent No.2, under its order dated 18-4-1978, allotted plot No.283 admeasuring 589 sq.mts. to the petitioner for industrial purposes in the G.I.D.C. Estate at Odhav. Agreement was also entered into between the parties on 9-6-1978. As the petitioner failed to raise construction of industrial shed, the allotment of the plot came to be cancelled, and further action was taken for eviction of the petitioner under the provisions of the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972. The order came to be passed by the Competent Authority under the aforesaid Act for eviction of the petitioner. The appeal preferred against that order has been dismissed. Hence the present petition.

3. While admitting the writ petition this court has protected the petitioner by ordering to maintain status quo and that interim relief continues till date. The petitioner has filed detailed affidavit before this court and made statement on oath that the work of construction of factory building was commenced in July, 1982 and completed in July, 1984. The petitioner further stated that about Rs. 2 lakhs have been spent for construction of factory and total turnover of business of the petitioner is about Rs. 15 lakhs. The petitioner is manufacturing chemical machineries and processing machines such as crane, drill, lathe, etc., in the factory. These facts have been admitted by the respondents. The counsel for the petitioner submitted that in view of the fact that the factory building has already been constructed and the petitioner started business, it is in the interest of the nation also to allow the petitioner to continue the business. The counsel for the respondent contended that whatever amount due by the petitioner to the Corporation should be paid, for which the counsel for the petitioner is agreeable. This court had directed the counsel for the Corporation to produce the statement of account, which has been produced today in the court. As per that statement of accounts, Rs.5,324/- is shown to be outstanding against the petitioner. The counsel for the petitioner submitted that an amount of Rs.2000/- has been paid by cheque which has not been adjusted. However, the counsel for the respondents very fairly submitted that in case cheque has been given and the Corporation has got the same encashed,

then the petitioner is entitled to adjustment of the said amount from the demand made.

4. Taking into consideration the totality of the facts of the case and the fact that the petitioner was protected for all these years by interim relief coupled with the fact that the factory building has been constructed and the business has been commenced, the order cancelling the allotment of land is quashed and set aside. The consequential order of the competent authority for eviction of the petitioner and the order of the appellate authority confirming that order are also set aside. However, the petitioner is directed to pay Rs.5324/- to the respondents within a period of two months from today together with interest thereon at the rate of 18% per annum from 1st April, 1988. In case the amount of Rs.2000/- is paid by the petitioner, then that amount together with proportionate interest at the rate of 18% per annum shall be given set off by the respondents at the time of payment of the aforesaid amount by the petitioner. Rule made absolute in the aforesaid terms, with no order as to costs.

....

csm